

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GEORGE WISHART,

Plaintiff,

-against-

PETER WELKLEY, et al.,

Defendants.

**DECLARATION OF MICHAEL
SWIATOWY**

19-CV-6189

MICHAEL SWIATOWY, pursuant to 28 U.S.C. §1746, declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

1. I am a Defendant in the above-captioned proceeding.
2. Over the course of this litigation, I have been asked to produce my phone and personal data for collection on five separate occasions. I have complied all five times.
3. I received an email from my lawyer on April 20th, 2021, giving me instructions on how to sign up for an appointment with 4Discovery to extract the data from my phones and accounts.
4. When I received the email I was about to go on vacation and would not return until May 3rd.
5. By the time I returned from vacation I had simply forgotten about the 4Discovery collection. I apologize for that oversight but it was not intentional. Two and a half weeks later, on May 21st, I received a reminder, and immediately signed up for an appointment.
6. I received an email response later that day saying my booking had been canceled, and that the process required a remote collection kit which would be sent to my address, after which I would schedule an appointment.

7. I waited for the kit to arrive. It did not come.
8. On June 10th, 2021, I received an email from 4Discovery explaining that they did not have my correct mailing address. I provided it, and promptly scheduled the appointment as soon as I received the kit.
9. I provided all my data to 4Discovery, as I had done every time I have been asked to provide my data in this litigation.
10. This included an iPhone 7 which was broken and I had not used since at least 2017. The screen was severely cracked and it did not work.
11. I do not know the technical details of why it did not work.
12. When I sent in the iPhone to the Attorney General's IT tech in White Plains, I was informed it had been reset. That was the first I heard of my phone being reset. I did not intentionally reset the phone at any point. I may have unintentionally reset it in 2017 when it broke.
13. Since 2017, I have not touched the phone in any way other than to send it to White Plains and to hook it up to 4Discovery's equipment.
14. I have always complied with the Court's orders to the best of my ability. At no time did I intentionally act in any way to defy or refuse to follow a Court order.

Dated: August 4, 2022
Attica, New York

s/ Michael Swiatowy
MICHAEL SWIATOWY

CERTIFICATE OF SERVICE

I certify that on August 8, 2022, I electronically filed the foregoing Declaration of Swiatowy on behalf of the Served Defendants with the Clerk of the District Court using CM/ECF system, which sent notification of such filing to the following:

1. Joshua S. Moskovitz
Bernstein Clarke & Moskovitz PLLC
11 Park Place
Suite 914
New York, NY 10007
2. Robert Howard Rickner
Rickner PLLC
233 Broadway
Suite 2220
New York, NY 10279

And, I hereby certify that I have mailed, by the United States Postal Service, the document to the following non-CM/ECF participant(s):

1. n/a

LETITIA JAMES
Attorney General of the State of New York
Attorney for Served Defendants

s/ Hillel Deutsch
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